

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

Amend the bill by striking out all of section 3 (page 1, lines 14 to 22 in L.D.) and inserting the following:

‘**Sec. 3. 5 MRSA §12004-J, sub-§15** is enacted to read:

15.

		<u>34-B MRSA</u> <u>§1223</u>
<u>Mental</u>	<u>Maine</u>	<u>Per diem for</u>
<u>Health and</u>	<u>Developmental</u>	<u>noncompensated</u>
<u>Mental</u>	<u>Services Oversight</u>	<u>members, as</u>
<u>Retardation</u>	<u>and Advisory Board</u>	<u>specified by board</u>
		<u>rule or policy, and</u>
		<u>expenses for all</u>
		<u>members of the</u>
		<u>board</u>

Amend the bill by inserting after section 5 the following:

‘**Sec. 6. 34-B MRSA §1216, sub-§4**, as enacted by PL 1995, c. 127, §1, is repealed and the following enacted in its place:

4. Repeal. This section is repealed on the later of:

A. Forty-five days after the United States District Court releases the State from all obligations under the community consent decree, Consumer Advisory Board et al. v. Glover, No. 91-321-P-C (D. Me., September 28, 1994); and

B. January 1, 2009.’

Amend the bill in section 6 in §1223 in subsection 1 in the 2nd line (page 1, line 31 in L.D.) by striking out the following: "12004-I, subsection 61-A" and inserting the following: '12004-J, subsection 15'

Amend the bill in section 6 in §1223 in subsection 1 in paragraph C by inserting at the end the following: 'Of these members, at least 4 must be persons with mental retardation or autism, referred to in this section as "self-advocates."'

Amend the bill in section 6 in §1223 by striking out all of subsection 4 (page 2, lines 30 to 34 in L.D.) and inserting the following:

‘**4. Compensation.** Members of the board are entitled to reimbursement of reasonable expenses incurred in order to serve on the board as provided in Title 5, section 12004-J, subsection 15. Members not otherwise compensated by their employers or other entities whom they represent are entitled to receive a

per diem as established by rule or policy adopted by the board for their attendance at authorized meetings of the board.'

Amend the bill in section 6 in §1223 in subsection 6 in the 4th line (page 2, line 39 in L.D.) by inserting after the following: "account," the following: 'as a separate line item,'

Amend the bill in section 6 in §1223 in subsection 8 in paragraph A in the first line (page 3, line 5 in L.D.) by striking out the following: "to persons" and inserting the following: 'for adults'

Amend the bill in section 6 in §1223 in subsection 9 in paragraph A in the first line (page 3, line 18 in L.D.) by striking out the following: "other alternative" and inserting the following: 'other forum'

Amend the bill in section 6 in §1223 in subsection 9 in paragraph E by striking out all of the last underlined sentence (page 3, lines 41 and 42 and page 4, lines 1 to 3 in L.D.)

Amend the bill in section 6 in §1223 in subsection 9 by inserting after paragraph E the following:

'F. The board may refer individual cases that require investigation or action to the Office of Adults with Cognitive and Physical Disability Services or the Office of Advocacy within the department, the protection and advocacy agency designated pursuant to Title 5, section 19502 or other appropriate agency.'

Amend the bill in section 6 in §1223 in subsection 10 in the first line (page 4, line 4 in L.D.) by striking out the following: "; referral of individual cases "

Amend the bill in section 6 in §1223 in subsection 10 by striking out all of paragraph C (page 4, lines 23 to 31 in L.D.) and inserting the following:

'C. The board may request and review reports of actions taken by an entity to which a referral is made under subsection 9, paragraph F. If these reports are likely to reveal personally identifying information, the board shall conduct reviews in executive session and shall take all actions necessary and appropriate to preserve the confidentiality of the information.'

Amend the bill in section 6 in §1223 in subsection 11 in paragraph E in the first line (page 5, line 9 in L.D.) by striking out the following: "stipends for certain" and inserting the following: 'per diem stipends for'

Amend the bill by striking out all of sections 8 to 11 and inserting the following:

'Sec. 8. 34-B MRSA §5001, sub-§1-C is enacted to read:

1-C. Family. "Family" means those persons that the person defines as included in that person's family, including as appropriate unpaid individuals with whom the person resides.

Sec. 9. 34-B MRSA §5001, sub-§2-A is enacted to read:

2-A. Individual support coordinator. "Individual support coordinator" means a regional staff member of the department with the responsibility for coordinating the personal planning and professional services for a person with mental retardation or autism.

Sec. 10. 34-B MRSA §5001, sub-§3-B is enacted to read:

3-B. Person. "Person" means an adult with mental retardation or autism.

Sec. 11. 34-B MRSA §5001, sub-§3-C is enacted to read:

3-C. Personal planning. "Personal planning" means a process that assists and supports each person with mental retardation or autism in creating a vision for how to live in and be a part of the community.

Sec. 12. 34-B MRSA §5001, sub-§3-D is enacted to read:

3-D. Personal planning team. "Personal planning team" means the person with mental retardation or autism, the person's guardian, if any, the person's individual support coordinator or case manager and other individuals chosen or identified by the person to participate in personal planning.

Sec. 13. 34-B MRSA §5001, sub-§3-E is enacted to read:

3-E. Professional services. "Professional services" means services provided by individuals licensed to provide medical or behavioral health care and treatment, including but not limited to physicians, nurses, physical therapists, occupational therapists, psychologists, speech therapists and dentists.'

Amend the bill in section 13 in §5003-A in subsection 2 in paragraph G by striking out all of subparagraph (1) (page 6, lines 39 and 40 and page 7, lines 1 and 2 in L.D.) and inserting the following:

(1) The commissioner shall work actively with the Commissioner of Education to ensure that persons with mental retardation or autism receive appropriate services upon being diagnosed with either disability regardless of the degree of retardation or autism or accompanying disabilities or handicaps;

Amend the bill in section 13 in §5003-A in subsection 3 in paragraph D in the first line (page 7, line 23 in L.D.) by inserting after the following: "mental retardation" the following: 'and autism'

Amend the bill in section 13 in §5003-A in subsection 3 in paragraph F in the 2nd line (page 7, line 28 in L.D.) by inserting after the following: "retardation" the following: 'and autism'

Amend the bill in section 13 in §5003-A in subsection 3 in paragraph H in the 2nd line (page 7, line 34 in L.D.) by inserting after the following: "mental retardation" the following: 'and autism'

Amend the bill in section 14 in §5005 in subsection 3 in paragraph F in the 4th and 5th lines (page 10, lines 2 and 3 in L.D.) by striking out the following: "field of mental health and mental retardation" and inserting the following: 'fields of mental health, mental retardation and autism'

Amend the bill in section 18 in §5470-B by striking out all of subsection 1 (page 13, lines 37 to 39 in L.D.) and inserting the following:

1. Right to personal planning. Every adult with mental retardation or autism who is eligible for services must be provided the opportunity to engage in a personal planning process in which the needs and desires of the person are articulated and identified.

Amend the bill in section 22 in paragraph B by striking out all of subparagraph (2) (page 18, lines 4 to 8 in L.D.) and inserting the following:

(2) For an adult 18 years of age or older, with the approval, following a case-by-case review, of a review team composed of an advocate from the Office of Advocacy; a representative of the ~~Division of Mental Retardation~~Office of Adults with Cognitive and Physical Disabilities; and a representative of the ~~Consumer Advisory Board~~Maine Developmental Services Oversight and Advisory Board; and

Amend the bill by striking out all of section 24 (page 18, lines 26 to 39 and page 19, lines 1 to 11 in L.D.) and inserting the following:

Sec. 24. 34-B MRSA §5610 is enacted to read:

§ 5610. Service delivery

1. Guiding service delivery. The delivery of services by providers of services and the department to persons with mental retardation and autism is guided by the following.

A. Persons with mental retardation or autism have the same rights as all citizens, including the rights to live, work and participate in the life of the community.

B. Community inclusion is achieved by connecting persons and their families, whenever possible, to local and generic supports within the community and by the use of residential services that are small and integrated into the community.

C. Real work for real pay for persons in integrated settings in the community is the cornerstone of all vocational and employment services.

D. Service delivery to persons with mental retardation and autism is based on the following fundamentals:

(1) Maximizing the growth and development of the person and inclusion in the community;

(2) Maximizing the person's control over that person's life;

(3) Supporting the person in that person's own home;

(4) Acknowledging and enhancing the role of the family, as appropriate, as the primary and most natural caregiver; and

,

(5) Planning for the delivery of community services that:

(a) Promotes a high quality of life;

(b) Is based on ongoing individualized assessment of the strengths, needs and preferences of the person and the strengths of that person's family; and

(c) Identifies and considers connections in other areas of the person's life, including but not limited to family, allies, friends, work, recreation and spirituality.

Amend the bill by striking out all of sections 26 and 27 (page 19, lines 20 to 38 and page 20, lines 1 to 14 in L.D.) and inserting the following:

‘Sec. 26. Initial appointments. Notwithstanding the Maine Revised Statutes, Title 34-B, section 1223, subsection 1, the Consumer Advisory Board, established pursuant to Title 34-B, section 1216, and the Maine Advisory Committee on Mental Retardation, established pursuant to Title 5, section 12004-I, subsection 61, in anticipation of the effective date of Title 34-B, section 1223, one month prior to that date shall appoint the initial 15 members of the Maine Developmental Services Oversight and Advisory Board as follows:

1. Four members selected by the Consumer Advisory Board;
2. Two members selected by the Maine Advisory Committee on Mental Retardation;
3. One member selected by the protection and advocacy agency designated pursuant to Title 5, section 19502;
4. One member selected by a statewide coalition that works to support and facilitate the ability of local and statewide self-advocacy organizations to network with each other and with national organizations; and
5. Seven members who are selected by a group that consists of:
 - A. Two persons appointed by the Governor;
 - B. One person appointed by a statewide coalition that works to support and facilitate the ability of local and statewide self-advocacy organizations to network with each other and with national organizations;
 - C. One person appointed by the protection and advocacy agency designated pursuant to Title 5, section 19502;
 - D. One person appointed by a statewide association of community service providers; and

E. One person appointed by the Maine Developmental Disabilities Council established by Title 5, section 12004-I, subsection 66.

Notwithstanding the Maine Revised Statutes, Title 34-B, section 1223, subsection 2, of the initial appointments to the Maine Developmental Services Oversight and Advisory Board, the Consumer Advisory Board and the Maine Advisory Council on Mental Retardation shall designate 5 members to serve an initial term of one year, 5 members to serve an initial term of 2 years and 5 members to serve an initial term of 3 years.

Members initially appointed to the Maine Developmental Services Oversight and Advisory Board must include stakeholders involved in services and supports for persons with mental retardation or autism in the State and other individuals interested in issues affecting persons with mental retardation or autism. Employees of the Department of Health and Human Services may not be appointed as members of the board.'

Amend the bill in section 28 by inserting after subsection 3 the following:

'**4. Budgets.** The Department of Health and Human Services shall take the following actions with regard to the budgets of the Consumer Advisory Board and expenses with regard to the community consent decree, Consumer Advisory Board et al. v. Glover, No. 91-321-P-C (D. Me. September 28, 1994):

A. For state fiscal year 2008-09, on the date that the Consumer Advisory Board is repealed, the department shall transfer by financial order to the Maine Developmental Services Oversight and Advisory Board the remainder of the unencumbered balance in the budget of the Consumer Advisory Board for fiscal year 2008-09; and

B. Beginning with state fiscal year 2010-12, the department shall include a line item in the department budget submission to the State Budget Officer pursuant to the Maine Revised Statutes, Title 5, section 1665 for the Maine Developmental Services Oversight and Advisory Board. The submission to the State Budget Officer must reflect the budget decisions of the board with regard to funding and expenditures under Title 34-B, section 1223, subsection 9, paragraph B.

Amend the bill by striking out all of section 29 (page 20, lines 35 to 37 in L.D.) and inserting the following:

'**Sec. 29. Effective dates.** This Act takes effect November 1, 2007, except that the following sections take effect upon elimination of the Consumer Advisory Board pursuant to the Maine Revised Statutes, Title 34-B, section 1216, subsection 4:

1. Those sections of this Act that repeal Title 3, section 959, subsection 1, paragraph F, and Title 5, section 12004-I, subsection 61;

2. That section of this Act that amends Title 34-B, section 5605, subsection 13, paragraph B; and

3. Those sections of this Act that enact Title 5, section 12004-J, subsection 15 and Title 34-B, section 1223.'

Amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

SUMMARY

This amendment:

1. Specifies that all members of the Maine Development Services Oversight and Advisory Board are entitled to expenses for attending board meetings and that noncompensated members are entitled to per diem, as specified by board rule or policy;
2. Amends and adds an alternative date for the repeal of the Consumer Advisory Board;
3. Specifies that at least 4 members of the Maine Developmental Services Oversight and Advisory Board must be self-advocates;
4. Clarifies language regarding the referral of individual cases for investigation or action;
5. Specifies that eligibility for services begins upon diagnosis of mental retardation or autism;
6. Provides that the initial appointments to the Maine Developmental Services Oversight and Advisory Board be made by the Consumer Advisory Board and the Maine Advisory Committee on Mental Retardation rather than by the Governor;
7. Provides transition language with regard to the budgets of the Maine Developmental Services Oversight and Advisory Board;
8. Provides effective dates that are connected to the repeal of the Consumer Advisory Board for several specific sections of the bill and a general effective date of November 1, 2007; and
9. Specifies that the Department of Health and Human Services must include in its estimate of expenditure and appropriation requirements funds for the board as a separate line item.

FISCAL NOTE REQUIRED

(See attached)